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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09/630,900	08/02/2000	Raymond E. VanKouwenberg	20022.99R162US	7976

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EXAMINER	
MANOHARAN, VIRGINIA	
ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/630,900	VANKOUWENBERG, RAYMOND E.
	Examiner	Art Unit
	Virginia Manoharan	1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1-24-03* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☒ Claim(s) *10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed "activating the heating element substantially only when the temperature of the heating element exceeds the temperature of the heat transfer liquid by less than a preset value" nowhere in the specification. (Underlining supplied). However, if support can be pointed-out, at least the above limitation is not positively recited in the specification such that. the specification fails to provide proper antecedent basis for the claimed subject matter. Note also claim 1, (e), recitation of "immersing the heating element... having a boiling point in excess of the boiling point of water ...".See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

The disclosure is objected to because of the following informalities: In claim 1, line 1, "moveable" should be -- movable --.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanKouwenberg et al '690 in view of Salmon.

The above references are applied for the same combined reasons as set forth at pages 2-3 of the previous Office action.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanKouwenberg et al in view of Salmon as applied to claims 1-5 and 8-9 above, and further in view of Cress et al.

Cress et al is applied for the same reasons as set forth at the first full paragraph, page 4 of the previous Office action.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed January 27, 2003 have been fully considered but they are not persuasive.

Applicant's arguments such as: "Salmon cannot be combined with VanKouwenberg '680 to teach the present invention as claimed in claim 1, in which, *inter alia*, the heating element is immersed in the heat transfer liquid to vaporize the wastewater and the heating chamber generally surrounds the fluid vessel.... Nor can it be said that the references, whether considered singly or in combination, disclose or contemplate any of the claims dependent on claim 1, as

for example the wastewater supply tank of claim 4 or the heat control means of claims 8-10" are not persuasive of patentability for the following reasons:

Contrary to applicant's assertion, VanKouwenberg's disclosure at col. 2, lines 45-50, of "...A heater is provided for boiling the liquid within the heat transfer device reservoir causing the vapor formed thereby to flow into the condenser portion where it transfers the heat rejected during condensation into the hot water reservoir.." and further disclosure at col. 4, lines 8-10 and lines 27-28 of "... The reservoir portion of the heat transfer device is in cooperation with a heating element 116..... The heating element boils the liquid within the heat transfer device... Additionally, the wall of the heat transfer device can be fabricated using a double wall construction ..." would at least be suggestive of the argued "heating element being immersed in the heat transfer liquid.." as well as the concept of surrounding the fluid vessel by the argued heating chamber, i.e., the double wall of construction suggested above. Moreover, the prechamber of Salmon is deemed to read on the argued "wastewater supply tank" of claim 4. Note e.g., col. 8, lines 62-68. Also, Salmon's disclosure at col. 4, lines 40-59, col. 7 lines 3-64 and col. 9 would all render obvious the argued "control means" in claims 8-9.

Applicants further arguments that "Salmon uses the liquid to heat water in Figs. 1-5, Salmon does not use such a liquid to distill the water in Figs. 6-12, but

rather creates the steam by inserting a heating element into the water being distilled..." is not considered well-taken.

The claims are directed to apparatus which are not patentably distinguished from the apparatus of Salmon by the recitation of a particular use to which the apparatus or medium is to be put. The manner or method in which an apparatus or medium is to be used is not germane to the issue of patentability of the apparatus itself.

Thus, in the absence of anything which may be "new" or "unexpected result", a prima facie case of obviousness has been established by the art and has not been rebutted.

Unexpected results must be established by factual evidence. Mere arguments or conclusory statements in the specification, applicants' amendments, or the Brief do not suffice. In re Lindner, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972). In re Wood, 582, F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 703-308-3844. The examiner can normally be reached on Tuesday-Friday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9462 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

V. Manoharan/mn
April 24, 2003

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4/24/03